

Chapter 7 Quick Reference Guide:

To file for Chapter 7 Bankruptcy protection, you must file the following with the Clerk's Office:

1. Petition; The Petition, as well as other Bankruptcy Forms, can be downloaded on the Forms Page of the USBC, District of Maine web site. They are also available from most legal stationery stores or office supply stores that sell legal forms. 2. The second page of your petition must be a signature page (Form B21) with your original signature. 3. The Court requires the "matrix", a list of all your creditors and their complete addresses. A sample matrix can be viewed on the Creditor Matrix Page of the USBC, District of Maine web site.

Filing Fee - As of 11/1/2003, the fee is \$209.00. This can be paid in installments if you submit an Application to Pay Filing Fee in Installments with the petition and if you have not paid an attorney or any other person who renders services to you in connection with the case for services related to the preparation of your petition. This form is available on the Forms Page. An initial payment of \$39.00 made payable to United States Courts@ must accompany the petition. The total filing fee must be paid within 120 days of filing the petition. The Court does not accept personal checks.(L.B.R.Me.1006-2(a))

Legal Counsel - The Court recommends that anyone filing bankruptcy seek legal counsel. However, individuals may file on their own without an attorney.

BANKRUPTCY PROCEDURE:

Petition and Fees

The bankruptcy process begins when a debtor files a bankruptcy petition with the Clerk of the United States Bankruptcy Court serving the area in which the debtor has lived for the six months prior to filing. As of 11/1/2003, the filing fee is \$209.00, and, with the Court's permission, a petitioner may pay the fee in installments. An initial payment of \$39.00 must accompany the petition. A debtor will not receive a discharge (a release from debts) until the filing fee has been paid in full. If payment of the filing fee is not completed within the time specified by the Court (a maximum of 120 days from the date the petition is filed), the case will be dismissed with the balance of the filing fee remaining due and payable to the Court.

Schedules and Matrix

When filing the bankruptcy petition the debtor must provide detailed lists (schedules) of all debts and assets, including property owned, monies owed to the debtor, monies which the debtor may inherit within six months and insurance policies which she or he holds. The debtor must also list all property owned which is considered exempt from bankruptcy proceedings under state or federal law. More information concerning exempt property is included below. The debtor must also file a statement of financial affairs and a matrix which is a list of all the creditors to whom the debtor owes money. The matrix includes the creditors' names and complete addresses

including zip code. A sample matrix can be viewed on the Creditor Matrix Page of the USBC, District of Maine web site.

Automatic Stay

Once a debtor files a petition with the Court, the petition acts as a "stay" which prohibits further collection efforts by any creditor against the debtor. However, creditors may petition the Court to proceed in their collection efforts against the debtor after a bankruptcy petition has been filed. This action is called a "Motion for Relief From Stay" and usually requires a hearing before the Bankruptcy Judge.

Trustee

Once the petition is filed, a trustee is assigned to the bankruptcy case. The trustee, who is not an employee of the Court, is responsible for the administration of the debtor's estate. The estate is made up of any of the debtor's property and interest which is NOT exempt under law. It is the duty of the trustee to recover all assets of the debtor NOT exempt under law and to liquidate these assets for the benefit of the creditors. This means the trustee determines if the debtor has any assets which can be used to pay creditors and makes sure that payment is made if required.

Exemptions

The bankruptcy law allows debtors to exempt some property from the bankruptcy estate. This means that the debtor can keep some property. The Trustee cannot liquidate the exempt property to pay creditors. Some of the exemptions are listed below:

- (1) An interest in real or personal property used as a residence, NOT to exceed \$35,000.00, or \$70,000.00 if the debtor or a dependent of the debtor is either a person 60 years of age or older or a person who is physically or mentally disabled, see Title 14 M.R.S.A. § 4422 (1)(B);
- (2) An interest in one motor vehicle not to exceed \$5,000 in value;
- (3) An interest, not to exceed \$200 in value, in any particular item in household furnishings, goods, wearing apparel, appliances, books, animals, crops or musical instruments;
- (4) A total interest, not to exceed \$750 in value in jewelry, held primarily for personal use of the debtor or dependent;
- (5) A total interest, not to exceed \$6,000, of any unused amount of the exemption provided in subsection (1), in household goods, tools of the trade or personal injuries.;
- (6) A total interest, not to exceed, \$5,000 in value, in any implements, professional books, or tools of the trade of the debtor or dependent.
- (7) The debtor's interest in a boat, not exceeding 5 ton burden, used primarily for commercial fishing.

THIS IS ONLY A PARTIAL LISTING AND MAY NOT BE ACCURATE IF THE LAW HAS CHANGED RECENTLY. FOR A CURRENT LISTING OF EXEMPTIONS, REFER TO 14 M.R.S.A. § 4422 and 11 U.S.C. § 522.

Creditors Meeting

To find out if a debtor has assets that can be used to pay creditors, the Court schedules a meeting called the creditors' meeting or 341 meeting between the debtor, the assigned trustee, and all creditors listed on the debtor's matrix. The Court sends a hearing notice to the participants informing them of the bankruptcy filing and setting a date, time, and place for the creditors' meeting. The debtor is required to attend, and the trustee questions the debtor under oath. The creditors also have the right to question the debtor during this meeting. If the trustee determines that the debtor has assets which can be used to pay creditors, the trustee will ask the Bankruptcy Judge to issue an order directing the trustee to pay creditors to the extent possible.

Discharge

The debtor is entitled to a discharge or relief from payment of debts 60 days after the first scheduled date of the creditors meeting unless someone files a complaint against the debtor objecting to the discharge. The discharge relieves the debtor from payment of all debts listed on the debtor's bankruptcy schedules, with certain exceptions. Such exceptions may include

- (1) taxes owed within three years of filing;
- (2) money, property or services obtained by false pretenses or fraud;
- (3) debts not listed by the debtor on the schedules unless the creditor had notice or actual knowledge of the filing;
- (4) debts for fraud, embezzlement, larceny or misuse of funds held in trust;
- (5) alimony or child support;
- (6) willful and malicious injury by the debtor to person or property of another;
- (7) fine, penalty, or forfeiture payable to and for the benefit of a governmental unit;
- (8) an educational loan guaranteed by a governmental unit or non-profit institution of higher education, unless such payment would impose an undue hardship on the debtor and dependents;
- (9) debts for death or personal injury caused by the debtor's operation of a motor vehicle while under the influence of alcohol or other drugs; and
- (10) a debt that was scheduled by the debtor in a prior proceeding and found to be non-dischargeable by the Court.

A DEBTOR MAY NOT RECEIVE A DISCHARGE IF HE OR SHE HAS PREVIOUSLY BEEN GRANTED A DISCHARGE IN A BANKRUPTCY BEGUN SIX YEARS PRIOR TO THE DATE OF FILING THE NEW PETITION.

Reaffirming a debt

A debtor can "reaffirm" a debt (continue making payments for a specific debt) by entering into a reaffirmation agreement with the creditor. Property that is reaffirmed is not considered part of the debtor's estate. A reaffirmation agreement must be drawn up and signed by the debtor and the creditor before the Court issues a discharge order. Any reaffirmation of debt by a debtor who is NOT represented by an attorney requires a hearing before the Bankruptcy Judge. The reaffirmed debt does not become part of the discharge. This means that the creditor can pursue payment from the debtor without the court's permission if the debtor fails to meet the repayment terms specified in the reaffirmation agreement.

Case Closed

The bankruptcy case is closed approximately 10 days after the Discharge Order is granted and the distribution to creditors (if there is a distribution of monies) is completed.

Legal Counsel

While there is no requirement for a debtor to be represented by an attorney in bankruptcy matters, the Court strongly encourages all debtors to seek legal counsel if possible. The bankruptcy process can be very confusing and complex. An attorney can advise as to whether bankruptcy or some alternative is the best solution to financial problems. An attorney will prepare the necessary paper work and be present during bankruptcy proceedings. The attorney's legal fees and payment schedule are set by the attorney.

The Maine State Bar Association or a local lawyer referral service can provide the names of attorneys who handle bankruptcy cases. The Bankruptcy Court does not provide referrals.

Bankruptcy Forms can be downloaded on the Forms Page of the USBC, District of Maine web site.

Bankruptcy Form kits may be purchased at some office supply stores.